

FTC Updates COPPA FAQs to Address Mobile Apps

AUGUST 6, 2014

The Federal Trade Commission recently updated questions in the Children's Online Privacy and Protection Act (COPPA) FAQs pertaining to mobile apps. The FTC updated questions H.5 and H.10 of the FAQ, and added a new question under H.16. The update to question H.5 now outlines how a company can collect a parent or guardian's credit card or debit card as verifiable consent, even if not for use in a monetary transaction, if supplemented with another safeguard "reasonably calculated" to ensure that consent is being provided by the parent. For example, the credit or debit card number could be collected in connection with a special question only the parents would know. Previously, the FTC anticipated credit or debit cards only being collected as means of obtaining consent if a monetary transaction was involved. H.10 now offers the possibility of collecting a parent's app store account number or password as a mechanism for obtaining verifiable parental consent, provided the other requirements of COPPA are being met. To utilize this option, the FAQ states that the third party through which the account was created should use means reasonably calculated to ensure the person providing consent is the parent. Finally, the new H.16 addresses the question of what liability, if any, could arise for an app store that chooses to implement a verifiable parental consent mechanism for app developers to use. Because the app store is not an "operator" under COPPA, the FAQ advises that the app store will not be liable "for failing to investigate the privacy practices of the operators for whom you obtain consent."

TIP: Companies offering apps directed at children under 13 are considered "operators" under COPPA and subject to the same obligation to obtain verifiable parental consent prior to collecting information from children under 13 as operators of traditional websites. The revisions to the COPPA FAQ now help operators of apps think through how they can obtain verifiable parental consent under the COPPA Rule in the mobile environment.

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